

L. 92-41. Simple interest shall be calculated through the period of indebtedness to reflect each 6-month period change in the rates established by the Secretary.

[48 FR 42328, Sept. 19, 1983, as amended at 55 FR 52795, Dec. 21, 1990; 56 FR 29128, June 25, 1991; 61 FR 18922, Apr. 29, 1996]

### **32.614 Interest.**

#### **32.614-1 Interest charges.**

(a) Under the clause at 52.232-17, Interest, the responsible official shall apply interest charges to any contract debt unpaid after 30 days from the issuance of a demand, unless—

(1) The contract specifies another due date or procedure for charging or collecting interest;

(2) The contract is a kind excluded under 32.617; or

(3) The contract or debt has been exempted from interest charges under agency procedures.

(b) If not already applicable under the contract terms, interest on contract debt shall be made an element of any agreement entered into on deferment of collection.

(c) Unless specified otherwise in the clause at FAR 52.232-17, the interest charge shall be at the rate established by the Secretary of the Treasury under Public Law 92-41 for the period in which the amount becomes due. The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(1) The date on which the designated office receives payment from the contractor;

(2) The date of issuance of a Government check to the contractor from which an amount otherwise payable has been withheld as a credit against the contract debt;

(3) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the contractor; or

(4) The date of any applicable tax credit under 32.607.

[48 FR 42328, Sept. 19, 1983, as amended at 56 FR 29128, June 25, 1991; 61 FR 18922, Apr. 29, 1996]

#### **32.614-2 Interest credits.**

(a) An equitable interest credit shall be applied under the following circumstances:

(1) When the amount of debt initially determined is subsequently reduced; e.g., through a successful appeal.

(2) When the collection procedures followed in a given case result in an overcollection of the debt due.

(3) When the responsible official determines that the Government has unduly delayed payments to the contractor on the same contract at some time during the period to which the interest charge applied, provided an interest penalty was not paid for such late payment.

(b) Any appropriate interest credits shall be computed under the following procedures:

(1) Interest at the rate under 32.614-1(c) shall be charged on the reduced debt from the date specified in the first demand made for payment of the higher debt.

(2) Interest may not be reduced for any time between the due date under the demand and the period covered by a deferment of collection, unless the contract includes an interest clause; e.g., the clause prescribed in 32.617.

(3) Interest shall not be credited in an amount that, when added to other amounts refunded or released to the contractor, exceeds the total amount that has been collected, or withheld for the purpose of collecting the debt. This limitation shall be further reduced by the amount of any limitation applicable under 32.614-2(b)(2).

#### **32.615 Delays in receipt of notices or demands.**

If delivery of the demands or notices required by the clause at 52.232-17, Interest, is delayed by the Government (e.g., undue delay after dating at the originating office or delays in the mail), the date of the debt and accrual of interest shall be extended to a time that is fair and reasonable under the particular circumstances.

#### **32.616 Compromise actions.**

For debts under \$100,000, excluding interest, if further collection is not practicable or would cost more than the amount of recovery, the agency

may compromise the debt or terminate or suspend further collection action. Compromise is authorized by the Federal Claims Collection Act of 1966 (31 U.S.C. 3711). Compromise actions shall conform to Federal claims collection standards (4 CFR 101-105), and agency regulations.

[48 FR 42328, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986; 56 FR 29128, June 25, 1991]

#### **32.617 Contract clause.**

(a) The contracting officer shall insert the clause at 52.232-17, Interest, in solicitations and contracts, unless it is contemplated that the contract will be in one or more of the following categories:

(1) Contracts at or below the simplified acquisition threshold.

(2) Contracts with Government agencies.

(3) Contracts with a State or local government or instrumentality.

(4) Contracts with a foreign government or instrumentality.

(5) Contracts without any provision for profit or fee with a nonprofit organization.

(6) Contracts described in subpart 5.5, Paid advertisements.

(7) Any other exceptions authorized under agency procedures.

(b) The contracting officer may insert the clause at 52.232-17, Interest, in solicitations and contracts when it is contemplated that the contract will be in any of the categories specified in 32.617(a).

[48 FR 42328, Sept. 19, 1983, as amended at 60 FR 34759, July 3, 1995]

### **Subpart 32.7—Contract Funding**

#### **32.700 Scope of subpart.**

This subpart (a) describes basic requirements for contract funding and (b) prescribes procedures for using limitation of cost or limitation of funds clauses. Detailed acquisition funding requirements are contained in agency fiscal regulations.

#### **32.701 [Reserved]**

#### **32.702 Policy.**

No officer or employee of the Government may create or authorize an obligation in excess of the funds available, or in advance of appropriations (Anti-Deficiency Act, 31 U.S.C. 1341), unless otherwise authorized by law. Before executing any contract, the contracting officer shall (a) obtain written assurance from responsible fiscal authority that adequate funds are available or (b) expressly condition the contract upon availability of funds in accordance with 32.703-2.

[48 FR 42328, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986]

#### **32.703 Contract funding requirements.**

##### **32.703-1 General.**

(a) If the contract is fully funded, funds are obligated to cover the price or target price of a fixed-price contract or the estimated cost and any fee of a cost-reimbursement contract.

(b) If the contract is incrementally funded, funds are obligated to cover the amount allotted and any corresponding increment of fee.

##### **32.703-2 Contracts conditioned upon availability of funds.**

(a) *Fiscal year contracts.* The contracting officer may initiate a contracting action properly chargeable to funds of the new fiscal year before these funds are available; *provided*, that the contract includes the clause at 52.232-18, Availability of Funds (see 32.705-1(a)). This authority may be used only for operation and maintenance and continuing services (e.g., rentals, utilities, and supply items not financed by stock funds) (1) necessary for normal operations and (2) for which Congress previously had consistently appropriated funds, unless specific statutory authority exists permitting applicability to other requirements.

(b) *Indefinite-quantity or requirements contracts.* A one-year indefinite-quantity or requirements contract for services that is funded by annual appropriations may extend beyond the fiscal year in which it begins; *provided*, that